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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/729,615   | 12/05/2003  | Roy E. Moore JR.     | INI-0031-D4         | 2915             |
| 23413  | 7590        | 10/27/2006           | EXAMINER            |                  |
| CANTOR COLBURN, LLP<br>55 GRIFFIN ROAD SOUTH<br>BLOOMFIELD, CT 06002 |             |                      | CHEN, JOSE V        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3637                |                  |

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/729,615 | <b>Applicant(s)</b><br>MOORE ET AL. |  |
|                              | <b>Examiner</b><br>José V. Chen      | <b>Art Unit</b><br>3637             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/6, 10/5, 1/5, 11/4, 8/4, 12/3</u>                           | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of fig. 1-13e, 20, 21, 24-29, claims 1-16 in the reply filed on 06/07/04 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lind. The patent to Lind teaches structure as claimed including a pallet comprising an upper deck (12) comprising a support material an upper frame member (figs.1, 2) supporting said upper deck, a plurality of foot members (16) disposed in physical contact with the upper frame member, the foot members are integrally formed with the upper frame member and a lower frame member disposed in physical contact with the plurality of foot members.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind. The patent to Lind teaches structure substantially as claimed including a deck of polymer material. The use of different known materials, such as fibrous polymers, woven polymers for the same well known characteristics would have been matters of desirability and choice and would have been and well within the level of ordinary skill in the art at the time of the invention, thereby providing structure as claimed.

Claims 2, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind as applied to the claims above, and further in view of Arcocha et al. The patent to Lind teaches structure substantially as claimed as discussed above including foot member and cavity, the only difference being that there is no foam material in the foot members. However, the patent to Arcocha et al teaches the use of providing foam material to provide additional support to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Lind to include reinforcement structure in the form of foam material, as taught by Arcocha et al since such structure is used in the same intended purpose and environment, thereby providing structure as claimed.

Claims 3, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind as applied to the claims above, and further in view of Favaron et al. The patent to Lind teaches structure substantially as claimed as discussed above including a foot member, the only difference being that the foot member does not include a bend to engage a lip. However, the patent to Favaron et al teaches the use of providing a bend (fig. 4) to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Lind to include a bend in the foot member, as taught by Favaron et al since such structure is used in the same intended purpose of providing a placement guide thereby providing structure as claimed.

Claims 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind as applied to the claims above, and further in view of Traudt et al. The patent to Lind teaches structure substantially as claimed as discussed above including feet structure, the only difference being that the feet do not include interlocking slits. However, the patent to Traudt et al teaches the use of providing slit structure as the interlocking structure to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Lind to include interlocking slit structures as the interlocking structures, since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

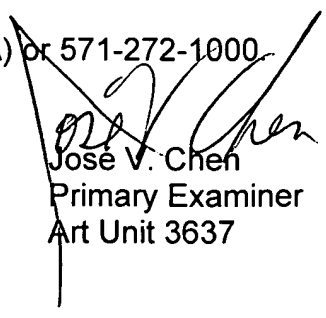
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Parnell, John et al, Apps et al ('677), Huang et al, Hale et al, Ohanesian ('642), Moore, Jr. et al, Preisler et al, Smyers et al teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
José V. Chen  
Primary Examiner  
Art Unit 3637

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10-23-06